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International Court of Justice

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 of the ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

1 July 1946.

COMMISSIONERS:

CAPTAIN JOSEPH TUBRIDY.

THE S. S.

(The Commission convened at 1000 hours)

LUDWIG GRAUERT, a witness, recalled to the stand and testified as follows:

DIRECT EXAMINATION
(resumed)

BY DR. PELCKMANN:

CAPTAIN TUBRIDY: Will you remind the witness that he is still under oath.

THE WITNESS: Yes.

BY DR. PELCKMANN:

Q Witness, you had just given us your testimony concerning the facts as to why you thought that the SS could have considered from a personal point of view, or from a human point of view as to being an elite organization. Will you please continue with your reasons for this?

A For example, a number of the aristocratic families were members of the SS, all of which I knew personally. More of them were leaders, for example, the Archduke of Brunswick, of Mecklenburg, of Hessia, of Lippe-Detmold, Lippe-Biesterfeld, the latter becoming a consort of the Queens

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daughter of Holland. I very often was invited to their house. I talked to them, and they never once mentioned that they did not like to be in the SS.

Q On the other hand did the SS have to have political officers who did not carry out their work properly report?

A There were a few cases where I had to dismiss State counsellors because they had behaved unworthy of political officers. I based my action on the reports of the Oberabschnittsfuehrer of the SS.

Q You had given a picture of the personal setup within the Gestapo under Diehls. Will you please tell us if the condition changed under Heydrich up to the time that you left. I refer especially here to the positions that were filled within the Gestapo by SS members?

A No, as before said, afterwards the administrative officials and the executive officials were taken from the upper brackets of the administration Heydrich appointed some of the directors of Gestapo offices who became to him as judges assistants, Untersturmfuehrer.

Q Had you any reasons for believing that the SD and the General SS at this time had any connections as far as organization was concerned with the Gestapo?

A No. In fact, the SD organization as a special organization of the General SS at that time took over the Intelligence Service within the Gestapo. That was a measure I did not approve of because in this way the Intelligence Service within the State was no longer possible to be controlled.

LT. HARRIS: I would like to have the entire answer read.

(Whereupon the answer was read)

BY DR. PELCKMANN:

Q Is the SS in your opinion indicted by the development and the

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activities carried out by the Gestapo, the question which the defense lawyer will ask you later on in detail?

LT. HARRIS: I object to that, calling for a conclusion.

DR. PELCKMANN: I withdraw my question.

BY DR. PELCKMANN:

Q Were you or are you a Catholic?

A Yes.

Q Did you know of, or did you receive any instructions or regulations that were of a hostile character towards the church policy from the General SS?

A No, on the contrary, when I married I did so in the uniform of the SS Sturmfuehrer in the Catholic Church in my home town, and I had the picture published in all of the SS newspapers, and that was in 1935.

Q What other facts could yougive concerning your testimony that you did not notice any activities hostile towards the church policies?

A Unfortunately my wife died in September 1935 in Dahlem. She was buried in a Catholic cemetary in Dahlen, and I as well as many SS leaders took part and wore our SS uniforms. All I can state was that the orders of the Prussian Bishop for example were carried out when I wore the SS uniform. I also wore my SS uniform when in Trier, for example, and at the time of the Holy Frock when he was vested with that in Trier, and I was shown the Cologne Cathedral by Cardinal Schulte when I wore the SS uniform. I myself was of the opinion at that time that I would be able to bring about an agreement between Catholicism and National Socialism, especially by reason of the conferences and discussions that I had with State Counsellor Berling at that time.

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Q Did you enter the Waffen SS during the war by reason of your high rank, and if so, were you an officer in the Waffen SS?

A No. When I left the State Service I with many other honorable leaders and the General SS members became a reserved officer in the German airforce, and did my training and duty within the airforce. At the end of the war I was a Colonel of the reserve, and regimental commander at the East front.

Q In the airforce ?

A Yes.

Q When did you retire from the State service?

A In June 1936.

Q You were at the same time then the SS Leader and Officer of the airforce?

A Yes.

Q Did you in these capacities happen to learn anything of inhuman activities in the concentration camps, and mass murders in the East?

A No. Although I had the opportunity of speaking to and conversing with many higher officials and acquaintances, I learned nothing of these murders at the concentration camps.

Q Can you give any explanation for this fact?

A Even the last time Heydrich had such strict secrecy in the regulations, that not any officer at all could glean any information, not even the Government President officers. These secret regulations became much stricter in the course of the war, and aside from this fact these atrocities were committed in occupied territores in the east.

DR. KEMPNER: That might be interpreted differently. He said "In the Far East." In the far east.

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~~CAPTAIN TUBRIDY: Eventually, it could be the far east.~~

BY DR. PELCKMANN:

Q Do you understand from the far east what is usually understood by you, that is, is it the Asiatic country, or do you mean the far east area from this?

~~CAPTAIN TUBRIDY: Dr Pelckmann, if you are trying to get an answer from the witness of what is meant by the "far east" and what he means by the Asiatic country, you are telling him what to answer.~~

~~DR PELCKMANN: I considered the answer was a matter of fact that I did not fell that I need put the answer to the witness.~~

~~CAPTAIN TUBRIDY: This was a minor point, but I just wish you would not frame your questions that way.~~

THE WITNESS: I ~~entered~~ meant the ~~East~~ far east of the German Reich quarter.

DR. PELCKMANN: No further questions.

DR. MERCKEL: I should like to ask some questions for the Gestapo.

BY DR. MERCKEL:

Q Were you ever a member of the Gestapo?

A No.

Q Were there before 1933 a political police System in the different German Landers?

A Yes.

Q Why was the law issued in Prussia after the siezure of power concerning the establishment of a secret State Police, and did you have any hand in the issuance of this law?

A The law establishing secret police in Prussia was issued mainly for reasons of organization. Of course, as a Secretary of State within the Ministry of the Interior I played a leading part in the issuance of this law.

Q Did the issuance of this law intend that conspiracy of crimes against humanity should be committed?

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LT. HARRIS: I am going to object because it calls for a conclusion, and the law speaks for itself.

DR. MERCKEL: The witness himself played a leading part in the establishing of this law, and the motives of the law are not contained in the wording of the law itself. The prosecution maintains that the Gestapo had a hand in the general conspiracy that was being mentioned here. The State Police is based on this first law issued on 26 April 1933, therefore, I am of the opinion that the question to the witness is administrative.

CAPTAIN TUBRIDY: ~~I think that~~ But once a law is promulgated — once such a thing is out, it should speak for itself after that.

DR. MERCKEL: But from the fact and the fact of the existence of this law, the prosecution wants to conclude that the Gestapo had a hand in the conspiracy, but if the prosecution thinks that from the wording a conspiracy charge can not be drawn , then, of course, I shall withdraw my question.

LT. HARRIS: Our position is simply that the decree speaks for itself, and that no witness can say what the intentions of the wording should be. That can only be derived from the law itself . The law has to be put into effect and applied, and to have such application not only in the wording but also in the motives of the law, which are essential, and, if the witness as Secretary of State played an important part in the creation of this law, yet, I do not believe he ought to be able to be allowed to ask him questions concerning the motives of this law.

CAPTAIN TUBRIDY: If there is any ambiguity in the wording, ~~you must ask the question correctly~~, and if any such fact exist; then you might ask him the question. But if the law is clear by its own language there is not

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much use going into the matter. If you want to ask him the motives for the law as a representative of that particular body than you may do so.

BY DR MERCKEL:

Q Then I should like to ask the witness a question. What were the motives that lead to the issuance of this law?

A As I already said, the motives were mainly of organization questions. When I entered there I found that in the Ministry there was a political department that was not attached or annexed to any police department, and in the Provinces I found the departments went as far as in a Province of 1-A Department of the Police President Offices. Therefore, I soon took over and brought about a personnel union by taking the directors of the Landers Criminal Offices, and putting them under the jurisdiction of the Central Department of the Ministry in order to have a certain position over them from Berlin. Aside from this fact the Gestapo remained part of the honor administration, and was under the jurisdiction of the Ministry of the Interior. Therefore, the laws that applied to the police regulations of this Department were those of 1931.

Q Did this law issued on 27 April 1936 give to the Gestapo any tasks different than from those that formerly were of the police offices, and what the different Landers had had?

A I do not remember the text of the law in detail, but I believe that no change was brought about by this law in this respect.

Q You did mention that when the Gestapo was set up, administrative and executive officers were ordered to the Gestapo. Did they take over their positions voluntarily, or not?

A At first the entire officers of the 1-A Department of the Police President Offices were taken over as a group. Later on officers from the

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criminal police were transferred through my police department because by and by I had a number of criminal police officers at my disposal, for the crime and the activity within the Reich had gone considerably downwards.

Q You said that when the Gestapo was established, the officers, or the officials were taken over as a group. What do you mean by a group?

A The entire 1-A Department was transferred into the Gestapo, or ordered into the Gestapo. All of these departments were part of the administration.

Q Will you please answer my question exactly then. Was this transfer of the officials a voluntary transfer or not for each individual?

A The conception of being transferred or ordered excludes the idea of voluntariness. Would it be correct to say that on the transaction itself that the other was an organization of ~~fantastic~~ fanatic volunteers of the National Socialist Battle Association. Up to my time the Gestapo was solely a State Institution.

Q Were the socalled unauthorized concentration camps that were established, or had arose out of seizure of power a concern of the Gestapo?

A Concentration camps might not be a correct term here. These were the socalled SA and SS groups of which I have already spoken, and that had nothing to do with the Gestapo.

Q Did the fact the seizure of power, arrests of any larger numbers, and the mal-treatments of inmates take place by the Gestapo?

A I had received no official reports to this effect. I had a statement of this in the course of years, or time, already in 1933, but as I was not in office any longer than 30th November; I do not remember having received any official reports. I do not believe that those things took place in

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large numbers, for it they had I believe that I should have heard or been informed concerning the means I had had at my disposal.

Q You already mentioned that at that time it was possible to bring about a complaint against a Gestapo Office for any actions. Will you please explain that more in detail.

A I already said that from 26 April 1933 until 30 November 1933 any regulations were police regulations to which the penal jurisdiction and the penal regulations already in such measures could be applied?

Q Was this possibility of a legal trial a proper one with the possibilities of defense and so on?

A As far as I remember this was regulated in a codification of the Prussian legal system.

Q And what was the legal basis for any such complaint action?

A The Police administrative law.

Q From what year does it date?

A 1931.

Q Did the Gestapo as an organization have a hand in the consideration of the Roehm Putsch?

A I myself Ican not say, but I believe it did not have any hand in it, because Heydrich had only been the head of the Gestapo as an organization for two and one-half months at this time.

Q When was Diehls dismissed from his position as Gestapo Inspector, and why and who was his successor?

A Diehls had been dismissed from his post as Inspector of the Gestapo upon my own very urgent personal suggestions with the Prussian Ministry of the Interior at that time. I had learned of incidents that had occurred

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there that were not quite proper. I did not learn ofthese by official investigations and reports,but I heard of them from a consultant whom I had in this office as supervisor of suc h complaints. Added to this was the fact that in March 1934, Diehls,and the remaining Ministry at that time,managed to arrest away, I might say, a separation of the organization from the administration; as the office of the State Secretary in the Prussian State Ministry, who was a deputy to Goering,and superior of Diehls, thus caused to go away all the fear that there would be an independent and unsupervised action. Upon my suggestion Goering discharged Diehls. I then wrote down the questions concerning protective custody, also, in March, in the Police regulation.

Q You just mentioned "protective custody." Why was this instituted?

A The basis for the material, and legal steps of the protective custody measures were the regulations concerning the protection of the nation and State on 28 February 1933. The fault with this regulation was that it only settled the material side but not the formal side of the question. Therefore, the steps that were enforced and carried out in connection withthis law differed in the various terms by reason of the different concepts of police regulations and so on.

Q And now answer my question why was protective custody instituted?

A Protective custody was instituted to handle cases of people who were considered politically opposed to the means of the State, and thus bring about a socalled preventive police arrests based on the regulations that I have already mentioned, and the foundation in the Prussian Police Law, in my opinion.

Q Would you please repeat your German answer for the German stenographer?

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A Yes. Therefore, the regulations on 11 March 1934 solely sought to do with the protective custody arrests that could be carried out by the Government Presidents Office with the commander for eight days only with a report to the central office, and that arrests existing eight days could only be carried out by the Prussian Prime Ministry, although through the Gestapo itself. Mention was once more made of the fact that in cases of temporary arrests, xxx on suspicion of crime, those cases had to be transferred within twenty-four hours to the proper legal courts for a decision. Final mention was once made of the fact that a party, or any office affiliated with such an organization did not have the right to carry out protective custody; that the Gestapo should be supervised in action, and that this was not done, if so, they should report immediately to the Prussian Prime Ministry Office.

Q Do you know Dr. Gisevius?

A Dr. Gisevius was employed within my honored circle after he had passed his judges assistant examination as to being an assistant. I was very anxious to have him in my ministry because Gisevius was at that time leader of the Youth organization and the Bismarck Youth, and both organizationswere still active at that time, were still active enough at that time as protective groups for the government.

Q On page 8258 of the German record it says the following: "Gisevius was to be arrested sometime in November 1933 by the Criminal Commissory in Daluege's room where he happened to be. That Daluege let him escape by means of the back door of Secretary of State Grauert, and thereupon Grauert intervened with Goering." Is that correct.

A I don't remember, but I don't believe that if this Criminal Commisory had been in my building I would have had him come to me immediately, and would

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have given him personally the necessary instructions.

Q Is there any possibility at all of getting to your rooms from Daluege's room by means of the back door?

A I donot know which back door he refers to, mine or Daluege . Daluege had offices on the first floor,and I had my office on the second floor.

CAPTAIN TUBRIDY: Dr. Merckel, what is the point of this line of questioning,may I ask.

DR. MERCKEL: I should like to prove Gesevius credibility by this witness, because Gisevius by his testimony indicted the Gestapo, and very seriously.

CAPTAIN TUBRIDY: Very well.

BY DR. MERCKEL:

Q On page 8255, this same Gisevius says,"Goering had given full power to the Gestapo to carry out murders where only the names of those who were to be murdered were still left blank." Is that correct?

A I can not imagine any legal phases for any such power at my time. There was a socalled obliteration,theright of obliteration to the president or head of the state, which, however, involved the settling of the legal act ofthe investigation before any decision could be taken. This right of obliteration was given to the Prussian Minister; I don't know the reason why the Prussian institution, and it was also given to the Prime Minister.

Q Was there then any possibility at all for Goering to give full power to the Gestapo for murders ?

A I don't remember and I can not remember - or imagine any legal settlement for such things.

DR. MERCKEL: No further questions.

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DR PELCKMANN: May I ask just one question which I forgot to ask before the interrogation by the other attorney.

CAPTAIN TUBRIDY: Very well.

BY DR PELCKMANN:

Q Were you a socalled SS honorary leader, witness?

A I had no activity within the SS. I just wore my uniform, as they say,"uniform a la suite" Ireceived no orders from Himmler,or any one else.

Q Did you do any SS duty at all in your capacity as SS leader?

A No.

DR PELCKMANN: Thank you.

CROSS EXAMINATION

BY DR. KEMPNER:

Q When did you leave the Ministry of Interior?

A On 30 June 1936.

Q What was the real reason for you doing so?

A My real reason was that Iwas very strongly opposed to the organization of the Gestapo, according to the law of 26 February 1936.

Q Were you really only opposed to the formal side, or also to the things that became known about and concerning the Gestapo?

A I had at that time heard by general talk that was about concerning the illegal protective custody within the development of the state affairs. I had always attached great importance to this part under my position, and as I considered, however, that the events on the whole were carried out within the frame work of the general political office at that time, I tried always to have an agreement between the organization side and the factual

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side of the questions.

Q A document has been submitted to this court in which the Ministry of Justice calls your attention -- that is, the Ministry of Interior -- to the effect that the Gestapo managed to get testimony from witnesses by beating them, and that they mal-treated the people in other terrible ways, cases of unbearable things,for example,and other abhorring things . Isn't it true that these unpleasant and continual reports was one of the reasons you entered the Army,and did not want to have anything to do with any of this any longer?

A May I ask the date of this document, is it 1934 or 1935? Of course, I remember these documents,and I think they wrote me and wanted to do something to bring about a change. I was not successful,and that was my reason for it.

Q In German language, you did not want to have anything to do with this sort of "swine" activity, the beating of decent persons.

A Yes, on the whole, but I would like to emphasize once more the immediate prevention I had recognized ~~it~~ in seeing the success that had been brought about within the framework of the entire ~~development~~ development of the affair,and I once more wanted to try to alleviate the condition which I thought could be prevented and changed.

Q But you were not successful, is that right?

A No, I was dismissed.

Q Who was your last supervisor?

A Minister Frick.

Q Frick, he was ahead since 1 May 1934?

A If I remember the first of April, or it may have been the 1st of May.

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Q Who was your superior before Frick?

A Mr Goering.

Q Would it be correct to say that originally you had thought that things would take a different turn?

A Yes, I only saw one way out and put myself at their dispposal, because I thought I would have to help to get things into a decent channel.

Q What did you do between 1923 and 1933?

A From 1923 to 1927 I was in the Huettenindustrie, a legal industry as public prosecutor,and I worked on legal and penal matters. I was appointed their legal adviser,and was made at the same time managing foreman of the organization of the entire northwest group of the organizations of steel and iron industrialists.

Q Did you at that time have a hand in seeing that large sums of money of the industrial concerns were given to National Socialist quarters?

A I personally had no fund in my organization for such things. However, at the beginning of 1932 I gave the Economic Adviser Funk 100,000 marks when Thyssen was not present and he needed it badly. At that time a decision had been taken by the heavy industry,the so-called Ruhrlage, that no funds were to be given to the National Socialist Party,but only the Government Paper Cabinet proper,and for having handed it this 100,000 marks I was supposed to be dismissed from my posts. Only the fact that Thyssen said I had already used his name, was not a measure that seemed correct one for which to be dismissed.

Q That was not the only time the Party SS received money from your help directly or indirectly. Will you tell us something about the other cases,and you can be quite frank in this matter?

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A I really do not remember any other cases where I placed large sums of money at their disposal, because I had no funds for such purposes. I only remember here the socalled Spann Institute of [illegible] of Duesseldorf. It was founded at his head,and through that [illegible] ideology I had been ~~lead~~ led to National Socialism,and I wanted to have his teachings to become more known and spread. That was the only time where I ever had given any help. There is no instance where I had given any funds to the organization as a whole,and to Hitler.

Q I did not mean the organization as a whole. I mean to individual SS groups and so on?

A I never gave the SS a single penny.

Q Only the Party?

A No. Just the case that I mentioned, not other cases. I may have given a Gauleiter some money for a newspaper in Gau Essen, because there in my scope was any possibility of help.

Q How much did you give the Gauleiter at that time?

A I did not negotiate with the Gauleiter at all. That was done by Waggoner,the Economic Personnel Adviser at Munich at that time.

Q How much?

A I did this in the form of a loan. It may have been 100,000 marks, it may have been less, I don't remember.

Q Do you know these loans have never been repaid by the Party?

A No, it has never been repaid.

Q Whether such loans were given to the Party directly or indirectly with your help, will you please tell us something about it?

A I know that my help was given,but I could not give you any one single case where I had to hand any person such a thing.

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Q Would you say it is correct if I say that with your help about three to five-hundred thousand marks were given to the Party, or its formations. You must be very careful because I have the documents.

A Even in spite of that fact I would say that this sum is exaggerated, because I had no funds at my disposal for such purpposes .

Q And that is you did not exceed 200,000 marks, indirectly?

A What do you mean by indirectly. That I know of it, or that I guessed it?

Q That you supposedly had. That you advised it. That you made the recommendation?

A If you will mention I might remember,but I don't remember any individual cases.

Q You only remember 100,000 to Funk,and 100,000 to Munich?

A Yes.

Q But it is not at all possible that it was more, is that correct?

A It is possible,but not up to 500,000 marks. Anyway, not from me personally.

Q But from your organization,and so on?

A I should like to say that my organization had no fund for such purposes. Our Employers Organization only had a fund for strike eventualities.

Q You knew that these facts were of more importance for your having become a ministerial director and Minister of Interior in 1933, aside,of course, from your capabilities?

A I would not say that,that I was given a position for that reason, because I left a much better pay and a much more unofficial position ~~when~~ than taking on the one in the Ministry. I solely think so because Goering

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personally asked me to take over the administration work here, and I remember that I asked him four times to take it over. I had not been destined from the very beginning of originally to take this position, and I even then only did accept after I had been given assurance that my predecessor would be given a similar position of importance in another ministry.

Q Who was your predecessor?

A Ministerial Director ~~Koestner~~ KLAUSNER.

Q K-L-A-U-S-N-E-R, Klausner.

A Yes.

Q He was murdered on 30 June 1934, is that correct?

A He was shot on 30 June 1934.

DR KEMPNER: Yes.

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[illegible]

Q Were you an SS Obergruppenfuehrer at that time?

A Yes.

Q Do you know that SS men shot your predecessor?

A I heard that they were not SS men, but that they wore SS uniforms.

Q Did you agree by saying that that was pure murder?

A Objectively, it was murder.

Q What did you do when you heard that your predecessor was murdered by the SS, your predecessor who was the head of the Catholic action in Germany?

A I have already stated that objectively I considered this murder. If I consider the whole legal development of the action that took place at that time, and consider this an individual case, I would like to say that I saw the legal basis in the law that had been passed on the 3rd of July, and though I might not say that I was terribly affected by it and opposed to these affairs, but with the law of authorization that had been passed, I saw, on the 23rd of March, 1933, the legal basis for these events. On the other hand, it was not my concern to try to have these things investigated, and I could never investigate them if I had authority to do so because I was not competent in my office to do so. Furthermore, I do not remember, could not say or could not judge whether the indictment of high treason that was made was really true here.

Q Are you of the opinion that murder is not murder when a law is passed by a so-called Fuehrer?

A I think there were examples which are settled legally later. The law was undoubtedly, at that time, passed by the competent authorities, signed by them. The possibility for such a law, as I already said, existed.

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Q That is to say that if the Fuehrer made a law that all Jews were to be exterminated and ordered this in the form of a law, that is right too, is it?

A As a legal man, the question is too general for me to answer. It would have to be decided whether a legal example is here or not.

Q Was, in your opinion, the killing and gassing of the Jews a crime or not?

A The most terrible crime that I can imagine.

Q Was the murder of Minister Director Klausner, head of the Catholic Action in Germany, a crime in your opinion or not?

A I can only answer the question if I am given the facts concerning this event, which I have not had up to now.

Q You mean that ~~every~~ even today you have not made up your mind as to what it is?

A If the things that I have learned, and the things made known to me now are true, then I must say it was murder.

CAPT. TUBRIDY: We will have a recess now.

(A short recess was taken.)

BY DR. KEMPNER:

Q You said that you were not competent to act in Klausner's case, is that correct?

A Yes.

Q Don't you know that there was a law concerning settlement of ~~xxxxxxxxx~~ civil claims?

A Yes.

Q For example, if Klausner's widow wanted a pension, you were the competent authority to decide on that?

A No, Klausner was in the Reichministry of Transportation, and it was a question that concerned the Reich.

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Q That is a mistake of yours, I am sorry. I shall tell you and maybe then you will remember. Klausner was murdered on 30 June 1934. His wife wanted to have damages paid to her for the murder from the German Reich. Didn't she, in this connection, have to turn to the Minister of the Interior that was competent for the settlement of civil claims?

A Yes, for her settlement of the indemnity question. The damage would not be for her pension.

Q Mrs. Klausner's lawyer went to the Minister of the Interior, do you remember the lawyer's name?

A No.

Q It was Puender.

A Puender did not come to me.

Q But he was in your Ministry.

A These questions were, at that time, handled in the department that was under State Secretary Pfundner.

Q Do you know that Pfundner, after he made this claim application, was arrested by the Gestapo?

A Yes, I heard that.

Q Was this also one of the terrible things the Gestapo did, according to you?

A Yes.

Q I have something else here, taken from the files of the Minister of the Interior. Did the Minister of the Interior, for example, complain that people in foreign countries were kidnapped by the Gestapo?

A That is possible. I don't remember single cases at the present time.

Q Do you remember the case of Bernhold Jakob who was urged to come over from Switzerland across the border and kidnapped?

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A I remember a case, but not the name of Jakob.

Q You don't remember this case?

A No. May I see the document, maybe I shall remember then.

Q This is a long document and I don't want to introduce it. I shall just ask you if you remember the following sentences:

"Serious cases of political consequences or difficulties have, in recent times, occurred by the Gestapo by means of kidnapping on soverign territory. I refer to the cases of Jakob (Switzerland), Gutzeid (Netherlands and Holland), and the latest incident on the Czech border."

A If that occurred during my time, I should have written in that fashion.

Q And if the Minister of the Interior complained about such things, they were right?

A I am sure I did not do this without any material.

Q Here's another case, do you remember this one? It says:

"I shall here only mention the case of my teacher and Kreisleiter of Esterwegen, who was confined in protective custody for 8 days because he had and was later found giving his report concerning the treatments carried out by the SS."

A I remember this case exactly.

Q Was that your old Kreisleiter?

A No.

Q Was it a new Kreisleiter?

A I don't know, I don't remember. I f I remember correctly, I sent 50 people of the Field Gendarme and had the camp evacuated of SS personnel and had them manned by the Gendarme.

Q What did the SS do there?

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A That must have been very early in 1933. The SS had been sent into the Papenburger district in order to ameliorate conditions and to alleviate unemployment. They were in a camp near Esterwegen and had very frequently arrested people and brought them into the camp.

Q Is it correct that the SS mistreated people?

A Yes.

Q And the man you spoke about was arrested by the Gestapo and you complained about that?

A I don't know who maltreated them. It was either the SS or the Gestapo at that time.

Q According to the document that I have quoted, it says "the man had made a correct report concerning the treatments carried out by the SS."

A To us?

Q I don't know, but you complained about this?

A Yes.

Q Do you know the concentration camp Columbia Haus in Berlin?

A Yes, I know the Columbia House in Berlin.

Q Did you receive any complaints concerning the fact that the SS guards maltreated people there?

A The Columbia House was an extended detention institution for the Gestapo. At that time I knew of more complaints about the Helemanustrasse, as I have already mentioned. That was a so-called unauthorized SA barracks.

Q I am now speaking about the quite authorized Columbia House on the Tempelhof. You knew that maltreatments occurred there too?

A Yes.

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Q You knew that the guards were SS men?

A From ~~xxxxxx~~ hearsay I can say yes.

Q I was there, I saw them. Now, another point. Where were you on 28 February 1933?

A In the Ministry of the Interior. That was the day of the Reichstag conflagration.

Q Where were you on the evening of the Reichstag conflagration?

A I had gone to report to Minister Goering.

Q Between 9:00 and 10:00 P.M., you were in the burning Reichstag building. Why did you go there?

A Because I was head of the police department at that time and wanted to see the measures that were being taken.

Q Who called you there?

A We received the news from Daluege, or a Minister, when he was reporting to Goering, and the Minister had me go with him immediately to the Reichstag.

Q You stood at the head of the big stairs in SS uniform with Goering~~x~~/and Hitler is that ~~xxx~~ correct?

A Yes.

Q Do you know who set the Reichstag on fire?

A Yes, I heard later.

Q Who was it?

A The ~~SA~~ A Gruppenfuehrer, that is, at that time, SA Brigadefuehrer Ernst, with several SA men.

Q Where did you get your official information, and where did you hear of it?

A I did not hear of it officially. I learned of it later.

Q In 1936?

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A It may have been 1936 or 1937 .

Q And who told you this?

A I imagine that Gisevius told me this.

Q Didn't you receive any information at that time that the communists suggestion that/ and socialists had set it on fire had been pure invention?

A Yes, as the only man asked, at the time, was the janitor who had been in the building and was the last one to leave. He locked it up and told me that Thorgler was the only one who had been in the Reichstag at the end, and that he had fetched his hat and coat from the cloak room upstairs and left later. When the Gestapo said that Commandos had been the criminals, the explanation seemed plausible to me.

Q I now refer you to testimony given by Goering, and I shall give you the USA number later. Goering said, in his testimony:

"We, that is, Hitler and I, gave out the news that commandos had set the Reichstag on fire without any investigation having taken place at all. That is the way the Fuehrer wanted it."

Do you agree with this?

A Yes, as the regulation of 28 February 1933 is based on these facts.

Q That is to say that the regulation that abolished civil rights was based on a swindle?

A In retrospect, yes.

Q You yourself did not know that at that time?

A No.

Q A number of people were arrested on that day after the fire, is that correct?

A Yes. Thorgler, the commandos, and Lubbe.

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Q No, I mean the big commandos, Diehls and so on?

A Yes.

Q These reports were set up, as testified in the Ministry of the Interior in the Police Department. You were the head, at that time. What can you say about this?

A At that time Diehls, together with Ministerial Director Schulze was in the Political Department and not in the Police Department, and as far as I know, it had been separated. Therefore, I was not officially concerned with this question.

Q Had you heard that such decrees were being drawn up by another department?

A No, and I must say quite frankly, that I have no idea about the extent of the arrests even today.

Q You answered to a question asked by one of the defense lawyers, that the officials of the Gestapo were to be taken over cumulatively, or as a group, from the former administration?

A Yes.

Q Do you still insist on this testimony or do you want to restrict it?

A Diehls told me at that time that he had taken all the I-A officials of the Police Department and transferred them, or a great part of them, to my office. I met a number of them in camp and they told me that they blamed me for having been transferred, so that I must say that these officials were transferred by Diehls to the Police Department.

Q Do you know that the people who were anti-National Socialists were not transferred but fired?

A No.

Q You don't know that the leading I-A officials in Berlin were Schnidler, Schoch, Arian, Stumm and Stenzel?

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A I don't remember these names.

Q Would you say it is true if that is stated in the Ministerial paper of the Interior administration?

A Yes.

Q Do you want to restrict your testimony now to this extent that not all of the officials of the administration of Department 1-A were transferred, but that the anti-National Socialists were fired beforehand?

A Yes.

Q Very well.

A May I see the document? The law had not been put into effect at that time concerning the re-establishment of the civil servants' system.

Q They were first sentenced and then fired entirely by reason of the law. Now, another chapter.

How large was the number of police employees when you took over the Police Department in Prussia?

A I only remember that they numbered 48,000 -- and I had these as regular police. I don't know how many of them were administrative or criminal officials.

Q Would you consider it correct if the Pathfinder stated that the Prussian Police had a strength of 78,000 to 80,000?

A Yes, that would have to be correct.

Q You very strongly increased the Police, is that correct?

A To a certain extent yes, up to 1935, but after 1935 this recurred once more but against my will.

Q Mr. Gravert, the Prosecution would like to direct your attention to the fact that you are not a defendant here, but only a witness.

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A Yes, after 1935 the regular police was once more brought to the old strength.

Q Is it correct that the SS and ~~SS~~ SA Auxiliary Police were increased?

A Yes, including the Blue Shirts, if I may mention them.

Q Why was the decree that you made, at that time, termed to be a top secret matter, and had top secret written over it when you employed SS and ~~SS~~ SA?

A I cannot remember any reason because they ~~xxxxxxx~~ appeared in public. They were restricted, so far as I remember, in that they would only be employed for 3 marks per day, and that they could only become active in the company of an official of the regular police.

Q Afterwards you employed a considerably larger number and these were given military training, is that correct?

A They were not employed by the Ministry, but by the Police Department, and so far as I remember, they were cancelled very soon because I could not see any special use or purpose in them, and they received no military training.

Q Do you know that under the cloak of the police, 50,000 men were employed and trained, and on the 16th of March, 1935, they suddenly appeared as soldiers?

A If you mean the Ladespolizei whose strength of 30,000 men was based on the Versailles treaty, then these men were based in Paris.

Q I want to know if it is correct that 48,000 to 50,000 men were newly employed and suddenly appeared on the 16th of March, 1935, as soldiers? I don't want to know the reason, I just want to know if it is correct.

A This 45,000 to 50,000 men were, if I remember, were placed in the Army but they were not newly recruited men but were made up of the men who lived in barracks. I remember this so exactly because I had a decided opinion against Barracks Police and wanted to ~~xxxx~~ abolish it.

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Q I am not reproaching you with anything, I just want to know the facts. Would it be correct to say that the Prussian Minister of the Interior, Minster Goering, at that time used the Police for reasons of rearmament? Is that correct?

A It was, at this time, Fricke, but the transfer was made by the Minister of the Interior.

Q And who started it, Fricke or Goering?

A At the time of Georing, the Police was there. It started with Goering and ended with Fricke.

Q Now, one last point. You studied legal literature and the laws very closely, didn't you?

A At that time, yes.

Q You yourself made many laws and regulations?

A Yes.

Q Your signature is on many documents here of the Legal Gazette of 1933. You also aided the law compilations of Freisler, didn't you?

A Yes.

Q And you are well informed on matters of SS and Police?

A Yes.

Q Do you know that in the legal documents, there is the following sentence not once, but ten times. "The Police and the SS are the uniform gate protectors of the Reich." Is that correct if this was re-examined officially, again and again?

A Not in my time, not in Prussia.

Q I refer to 1936.

A When Himmler became chief of Police, this danger became greater and that is why I personally was opposed to it.

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Q And you left because you realized that something very bad was about to occur, is that correct?

A I did not want the officials to xxpresent the attitute that he alone was the representative of the State.

Q You were against thezaż amalgamations and became more and more close to the SS and Police, is that correct?

A I tried to turn the course of events and failed.

Q Because you knew that this would eventually lead to terrible consequences, is that correct?

A Because I feared that the cordon of my interior organization, especially insofar as the central institution was concerned, would suffer and be destroyed.

Q You knew that if the SS and these things would amalgamate, it would mean the end of a half-way decent state organization?

A I feared that with such a system, one no longer had any clear responsibility.

Q Because the same people who were subordinate to the State were also subordinate to Himmler?

A I saw that things could be carried out from one sight, and from xxxxxx another sight without the state having the possibility of interfering if it wanted to interfere.

Q And you saw this xxxxx very distinctly as a xx leader and state administration?

A Yes.

Q And by reason of your knowledge xx as a legal man, you condemned such an amalgamation?

A I considered this the cause of this whole terrible development.

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DR. KEMPNER: Thank you, that's all.

CAPT. TUBRIDY: Dr. Pelckmann, do you want to ask any further questions?

DR. PELCKMANN: No further questions.

CAPT. TUBRIDY: Could we adjourn now and start again at 1:35 P.M.

DR. PELCKMANN: Yes.

DR. KEMPNER: Yes.

(The Commission adjourned at 1230 hours.)

I certify that the foregoing is a true and correct transcript of the testimony of LUDWIG GRAVERT taken on 1 July 1946.

Charles Gallagher
Reporter (pp 1 - 18)

Liliane A. Ahuna
Reporter (pp 19-31)

COMMISSIONER: Joseph F Tubridy

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRINUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

1 July 1946.

COMMISSIONERS:

CAPTAIN JOSEPH TUBRIDY.

THE SS

(The Commissioner convened at 1000 hours)

LUDWIG GRAUERT, a witness, recalled to the stand and testified as follows:

DIRECT EXAMINATION -- Resumed

CAPTAIN TUBRIDY: Will you remind the witness that he is still under oath.

THE WITNESS: Yes.

BY DR. PELCKMANN:

Q. Witness, you had just given us your testimony concerning the facts as to why you thought that the SS could have considered from a personal point of view, or from a human point of view as to being an elite organization. Will you please continue with your reasons for this?

A. For example, a number of the aristocratic families were members of the SS, all of which I know personally. More of them were leaders, for example, the Archduke of Brunswick, of Mecklenburg, of Hessia, of Lippe-Detmold, Lippe-Biesterfeld, the latter becoming a consort of the Queen's daughter of Holland. I very often was invited to their house. I talked to them, and they never once mentioned that they did not like to be in the SS.

Q. On the other hand did the SS have to have political officers who did not carry out their work properly report?

A. There were a few cases which I had to dismiss State counsellors because they had behaved unworthy of political officers. I based my action on the reports of the Oberabschnittsfuehrer of the SS.

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Q. You had given a picture of the personal setup within the Gestapo under Diehls. Will you please tell us if the condition changed under Heydrich up to the time that you left. I refer especially here to the positions that were filled within the Gestapo by SS members?

A. No, as before said, afterwards the administrative officials and the executive officials were taken from the upper brackets of the administration Heydrich appointed some of the directors of Gestapo offices who came to him as judges assistants, Untersturmfuehrer.

Q. Had you any reasons for believing that the SD and the General SS at this time had any connection as far as organization was concerned with the Gestapo?

A. No. In fact, the SD organization as a special organization of the General SS at that time took over the Intelligence Service within the Gestapo. That was a measure I did not approve of because in this way the Intelligence Service within the State was no longer possible to be controlled.

LT. HARRIS: I would like to have the entire answer read.

(Whereupon the answer was read)

BY DR. PELCKMANN:

Q. Is the SS in your opinion indicted by the development and the activities carried out by the Gestapo, the question which the defense lawyer will ask you later on in detail?

LT. HARRIS: I object to that, calling for a conclusion.

DR. PELCKMANN: I withdraw my question.

BY DR. PELCKMANN:

Q. Were you or are you a Catholic?

A. Yes.

Q. Did you know of, or did you receive any instructions or regulations that were of a hostile character towards the church policy from the General SS

A. No, on the contrary, when I married I did so in the uniform of the SS Sturmfuehrer in the Catholic Church in my home town, and I had the picture published in all of the SS newspapers, and that was in 1935.

Q. What other facts could you give concerning your testimony that you

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did not notice any activities hostile howards the church policies?

A. Unfortunately my wife died in September 1935 in Dahlem. She was buried in a Catholic cemetery in Dahlem, and I as well as many SS leaders took part and wore our SS uniforms. All I can state was that the orders of the Prussian Bishop for example were carried out when I wore the SS uniform. I also wore my SS uniform when in Trier, for example, and at the time of the Holy Frock when he was vested with that in Trier, and I was shown the Cologne Cathedral by Cardinal Schulte when I wore the SS uniform. I myself was of the opinion at that time that I would be able to bring about an agreement between Catholicism and National Socialism, especially by reason of the conferences and discussions that I had with State Counsellor Berling at that time.

Q. Did you enter the Waffen SS during the war by reason of your high rank, and if so, were you an officer in the Saffen SS?

A. No. When I left the State Service I with many other honorable leaders and the General SS members became a reserve officer in the German airforce, and did my training and duty within the airforce. At the end of the war I was a Colonel of the reserve, and regimental commander at the East front.

Q. In the airforce?

A. Yes.

Q. When did you retire from the State service?

A. In June 1936.

Q. You were at the same time then the SS Leader and Officer of the airforce?

A. Yes.

Q. Did you in these capacities happen to learn anything of inhuman activities in the concentration camps, and mass murders in the East?

A. No. Although I had the opportunity of speaking to and conversing with many higher officials and acquaintances, I learned nothing of these murders at the concentration camps.

Q. Can you give any explanation for this fact?

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A. Even the last time Heydrich had such strict secrecy in the regulations, that not any officer at all could glean any information, not even the Government President officers. These secret regulations became much stricter in the course of the war, and aside from this fact these atrocities were committed in occupied territories in the east.

DR. KEMPNER: That might be interpreted differently. He said "In the Far East". In the far east.

BY DR. PELCKMANN:

Q. Do you understand from the far east what is usually understood by you that is, is it the Asiatic country, or do you mean the far east area from this

THE WITNESS: I meant the far east of the German Reich quarter.

DR. PELCKMANN: No further questions.

DR. MERCKEL: I should like to ask some questions for the Gestapo.

BY DR. MERCKEL:

Q. Were you ever a member of the Gestapo?

A. No.

Q. Were there before 1933 a political police system in the different German Landers?

A. Yes.

Q. Why was the law issued in Prussia after the seizure of power concerning the establishment of a secret State Police, and did you have any hand in the issuance of this law?

A. The law establishing secret police in Prussia was issued mainly for reasons of organization. Of course, as a Secretary of State within the Ministry of the Interior I played a leading part in the issuance of this law.

Q. Did the issuance of this law intend that conspiracy of crimes against humanity should be committed?

LT. HARRIS: I am going to object because it calls for a conclusion, and the law speaks for itself.

DR. MERCKEL: The witness himself played a leading part in the establishing of this law, and the motives of the law are not contained in the wording of the law itself. The prosecution maintains that the Gestapo had a hand in

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the general conspiracy that was being mentioned here. The State Police is based on this first law issued on 26 April 1933, therefore, I am of the opinion that the question to the witness is administrative.

CAPTAIN TUBRIDY: But once a law is promulgated -- should speak for itself after thatt

DR. MERCKEL: But from the fact and the fact of the existence of this law the prosecution wants to conclude that the Gestapo had a hand in the conspiracy, but if the prosecution thinks that from the wording a conspiracy charge can not be drawn, the, of course, I shall withdraw my question.

LT. HARRIS: Our position is simply that the decree speaks for itself, and that no witness can say what the intentions of the wording should be. That can only be derived from the law itself. The law has to be put into effect and applied, and to have such application not only in the wording but also in the motives of the law, which are essential, and, if the witness as Secretary of State played an important part in the creation of this law, yet, I do not believe he ought to be able to be allowed to ask him questions concerning the motives of this law.

CAPTAIN TUBRIDY: If there is any ambiguity in the wording, and if any such fact exists then you might ask him the question. But if the law is clear by its own language there is not

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much use going into the matter. If you want to ask him the motives for the law as representative of that particular body then you may do so.

BY DR. MERKEL:

.Q Then I should like toask the witness a question. What were the motives that lead to the issuance of this law?

A As I already said, the motives were mainly of organization questions. When I entered there I found that in the Ministry there was a political department that was not attached or annexed to any police department, and in the Provinces I found the departments went as far as in a Province of 1-A Department of the Police President Offices. Therefore, I soon took over and brought about a personnel union by taking the directors of the Landers Criminal Offices, and putting them under the jurisdiction of the Central Department of the Ministry in order to have a certain position over them from Berlin. Aside from this fact the Gestapo remained part of the honor administration, and was under the jurisdiction of the Ministry of the Interior. Therefore, the laws that applied to the police regulations of this Department were those of 1931.

Q Did this law issued on 27 April 1936 give to the Gestapo any tasks different than from those that formerly were of the police offices, and what the different Landers had had?

A I do not remember the text of the law in detail, but I believe that no change was brought about by this law in this respect.

Q You did mention that when the Gestapo was set up, administrative and executive officers wereordered to the Gestapo. Did the/ take over their positions voluntarily, or not?

A At first the entire officers of the 1-A Department of the Police President Offices were taken over as a group. Later on officers from the criminal police were transferred through my police department because by and by I had a number of criminal police officers at my disposal, for the crime and the activity within the Reich had gone considerably downwards.

Q You said that when the Gestapo was established, the officers, or the officials were taken over as a group. All of these departments were part of the administration.

Q Will you please answer my question exactly then. Was this transfer of the officials a voluntary transfer or not for each individual?

A The conception of being transferred or ordered excludes the idea of voluntariness. Would it be correct to say that on the transaction itself that the other was an organization of fanatic volunteers of the National Socialist Battle Association. Up to my time the Gestapo was solely a State Institution.

Q Were the so-called unauthorized concentration camps that were established, or had arose out of seizure of power a concern of the Gestapo?

A Concentration camps might not be a correct term here. These were the so-called SA and SS groups of which I have already spoken, and that had nothing to do with the Gestapo.

Q Did the fact the seizure of power, arrests of any large numbers, and the maltreatments of inmates take place by the Gestapo?

A I had received no official reports to this effect. I had a statement of this in the course of years, or time, already in 1933, but I was not in office any longer than 30th November; I do not remember having received any official reports. I do not believe that these things took place in large numbers, for if they had I believe that I should have heard or been informed concerning the means I had had at my disposal.

Q You already mentioned that at that time it was possible to bring about a complaint against a Gestapo Office for any actions. Will you please explain that more in detail.

A I already said that from 26 April 1933 until 30 November 1933 any regulations were police regulations to which the penal jurisdiction and the penal regulations already insuch measures could be applied?

Q Was this possibility of a legal trial a proper one with the possibilities of defense and so on?

A As far as I remember this was regulated in a codification of the Prussian legal system.

Q And what was the legal basis for any such complaint action?

A The Police administrative law.

Q From what year does it date?

A 1931.

Q Did the Gestapo as an organization have a hand in the consideration of the Roehm Putsch?

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A I myself I cannot say, but I believe it did not have any hand in it, because Heydrich had only been the head of the Gestapo as an organization for two and one-half months at this time.

Q When was Diehls dismissed from his position as Gestapo Inspector, and why and who was his successor?

A Diehls had been dismissed from his post as Inspector of the Gestapo upon my own very urgent personal suggestions with the Prussian Ministry of the Interior at that time. I had learned of incidents that had occurred there that were not quite proper. I did not learn of these by official investigations and reports, but I heard of them from a consultant whom I had in this office as supervisor of such complaints. Added to this was the fact that in March 1934, Diehls, and the remaining Ministry at that time, managed to arrest away, I might say, a separation of the organization from the administration; as the office of the State Secretary in the Prussian State Ministry, who was a deputy to Goering, and superior of Diehls, thus caused to go away all the fear that there would be an independent and unsupervised action. Upon my suggestion Goering discharged Diehls. I then wrote down the questions concerning protective custody, also, in March, in the Police regulation.

Q You just mentioned "protective custody." Why was this instituted?

A The basis for the material, and legal steps of the protective custody measures were the regulations concerning the protection of the nation and State on 28 February 1933. The fault with this regulation was that it only settled the material side but not the formal side of the question. Therefore, the steps that were enforced and carried out in connection with this law differed in the various terms by reason of the different concepts of police regulations and so on.

Q And now answer my question why was protective custody instituted?

A Protective custody was instituted to handle cases of people who were considered politically opposed to the means of the State, and thus bring about a so-called preventive police arrests based on the regulations that I have already mentioned, and the foundation in the Prussian Police Law, in my opinion.

Q Would you please repeat your German answer for the German stenographer?

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A Yes. Therefore, the regulations on 11 March 1934 solely sought to do with the protective custody arrests that could be carried out by the Government Presidents Office with the commander for eight days only with a report to the central office, and that arrests existing eight days could only be carried out by the Prussian Prime Ministry, although through the Gestapo itself. Mention was once more made of the fact that in cases of temporary arrests on suspicion of crime, those cases had to be transferred within twenty-four hours to the proper legal courts for a decision. Final mention was once made of the fact that a party, or any office affiliated with such an organization did not have the right to carry out protective custody; that the Gestapo should be supervisedin action, and that this was not done, if so, they should report immediately to the Prussian Prime Ministry Office.

Q Do you know Dr. Gisevius?

A Dr. Gisevius was employed within my honored circle after he had passed his judges assistant examination as to being an assistant. I was very anxious to have him in my ministry because Gisevius was at that time leader of the Youth organization and the Bismarck Youth, and both organizations were still active at that time, were still active enough at that time as protective groups forthe government.

Q On page 8258 of the German record it says the following: "Gisevius was to be arrested sometime in November 1933 by the Criminal Commissary in Daluege's room where he happened to be. That Daluege let him escape by means of the back door of Secretary of State Grauert, and thereupon Grauert intervened with Goering." Is that correct?

A I don't remember, but I don't believe that if this Criminal Commissary had been in my building I would have had him come to me immediately, and would have given him personally the necessary instructions.

Q Is there any possibility at all of getting to your rooms from Daluege's room by means of the back door?

A I do not know which back door he refers to, mine or Daluege. Daluege had offices on the first floor, and I had my office on the second floor.

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CAPTAIN TUBRIDY: Dr. Merkel, what is the point of this line of questioning, may I ask.

DR. MERKEL: I should like to prove Gisevius credibility by this witness, because Gisevius by his testimony indicted the Gestapo, and very seriously.

CAPTAIN TUBRIDY: Very well.

BY DR. MERKEL:

Q On page 8255, this same Gisevius says, "Goering had given full power to the Gestapo to carry out murders where only the names of those who were to be murdered were still left blank." Is that correct?

A I can not imagine any legal phases for any such power at my time. There was a so-called obliteration, the right of obliteration to the president or head of the state, which, however, involved the settling of the legal act of the investigation before any decision could be taken. This right of obliteration was given to the Prussian Minister; I don't know the reason why the Prussian institution, and it was also given to the Prime Minister.

Q Was there then any possibility at all for Goering to give full power to the Gestapo for murders?

A I don't remember and I cannot remember - or imagine any legal settlement for such things.

DR. MERKEL: No further questions.

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DR. PEICKMANN: May I ask just one question which I forgot to ask before the interrogation by the other attorney.

CAPTAIN TUBRIDY: Very well.

BY DR. PEICKMANN:

Q Were you a socalled SS honorary leader, witness?

A I had no activity within the SS. I just wore my uniform, as they say, "Uniform a la suite". I received no orders from Himmler, or any one else.

Q Did you do any SS duty at all in your capacity as SS leader?

A No.

DR. PEICKMANN: Thank you.

CROSS EXAMINATION

BY DR. KEMPNER:

Q When did you leave the Ministry of the Interior?

A On 30 June 1936.

Q What was the real reason for you doing so?

A My real reason was that I was very strongly opposed to the organization of the Gestapo, according to the law of 26 February 1936.

Q Were you really only opposed to the formal side, or also to the things that became known about and concerning the Gestapo?

A I had at that time heard by general talk that was about concerning the illegal protective custody within the development of the state affairs. I had always attached great importance to this part under my position, and as I considered, however, that the events on the whole were carried out within the framework of the general political office at that time, I tried always to have an agreement between the organization side and the factual side of the question.

Q A document has been submitted to this court in which the Ministry of Justice calls your attention -- that is, the Ministry of the Interior -- to the effect that the Gestapo managed to get testimony from witnesses by beating them, and that they maltreated the people in other terrible ways, bases of unbearable things, for example, and other abhorring things. Isn't it true that these unpleasant and continual reports was one of the reasons

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you entered the Army, and did not want to have anything to do with any of this any longer?

A May I ask the date of this document, is it 1934 or 1935? Of course, I remember these documents, and I think they wrote me and wanted to do something to bring about a change. I was not successful, and that was my reason for it.

Q In German language, you did not want to have anything to do with this sort of "swine" activity, the beating of decent persons.

A Yes, on the whole, but I would like to emphasize once more the immediate prevention I had recognized in seeing the success that had been brought about within the framework of the entire development of the affair, and I once more wanted to try to alleviate the condition which I thought coul be prevented and changed.

Q But you were not successful, is that right?

A No, I was dismissed.

Q Who was your last supervisor?

A Minister Frick.

Q Frick, he was head since 1 May 1934?

A If I remember the first of April, or it may have been the 1st of May.

Q Who was your superior before Frick?

A Mr. Goering.

Q Would it be correct to say thatoriginally you had thought that things would take a different turn?

A Yes, I only saw one way out and put myself at their disposal, because I thought I would have to help to get things into a decent channel.

Q What did you do between 1923 and 1933?

A From 1923 to 1927 I was in the Huettenindustrie, a legal industry as public prosecutor, and I worked on legal and penal matters. I was appointed their legal adviser, and was made at the same time managing foreman of the organization of the entire northwest group of the organizations of steel and iron industrialists.

Q Did you at that time have a hand in seeing that large sums of money of the industrial concerns were given to National Socialist quarters?

A I personally had no fund in my organization for such things. However, at the beginning of 1932 I gave the Economic Adviser Funk 100,000 marks when Thyssen was not present and he needed it badly. At that time a decision had been taken by the heavy industry, the so-called Ruhrlage, that no funds were to be given to the National Socialist Party, but only the Papen Cabinet and for having handed it this 100,000 marks I was supposed to be dismissed fr my posts. Only the fact that Thyssen said I had already used his name, was n a measure that seemed correct one for which to be dismissed.

Q That was not the only time the Party SS received money from your help directly or indirectly. Will you tell us something about the other cases, and you can be quite frank in this matter?

A I really do not remember any other cases where I placed large sums of money at their disposal, because I had no funds for such purposes. I only remember here the so-called Spann Institute of Duesseldorf. It was founded at his head, and through that ideology I had been led to National Socialism, and I wanted to have his teachings to become more known and spread. That was the only time where I ever had given any help. There is no instance where I had given any funds to the organization as a whole, and to Hitler.

Q I did not mean the organization as a whole. I meanto individual SS groups and so on?

A I never gave the SS a single penny.

Q Only the Party?

A No. Just the case that I mentioned, not other cases. I may have given a Gauleiter some money for newspaper in Gau Essen, because there in my scope was any possibility of help.

Q How much did you give the Gauleiter at that time?

A I did not negotiate with the Gauleiter at all. That was done by Waggoner, the Economic Personnel Adviser in Munich at that time.

Q How much?

A I did this in the form of a loan. It may have been 100,000 marks, it may have been less, I don't remember.

Q Do you know these loans have never been repaid by the Party?

A No, it has never been repaid.

Q Whether such loans were given to the Party directly or indirectly

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with your help, will you please tell us something about it?

A I know that my help was given, but I could not give you any one single case where I had to hand any person such a thing.

Q Would you say it is correct if I say that with your help about three to five hundred thousand marks were given to the Party, or its formations. You must be very careful because I have the documents.

A Even in spite of that fact I would say that this sum is exaggerated, because I had no funds at my disposal for such purposes.

Q And that is you did not exceed 200,000 marks, indirectly?

A What do you mean by indirectly? That I know of it, or that I guessed it

Q That you supposedly had. That you advised it. That you made the recommendation.

A If you will mention I might remember, but I don't remember any individual cases.

Q You only remember 100,000 to Funk, and 100,000 to Munich?

A Yes.

Q But it is not at all possible that it was more, is that correct?

A It is possible, but not up to 500,000 marks. Anyway, not from me personally.

Q But from your organization, and so on?

A I should like to say that my organization had no fund for such purposes. Our Employers Organization only had a fund for strike eventualities.

Q You knew that these facts were of more importance for your having become a ministerial director and Minister of Interior in 1933, aside, of course, from your capabilities?

A I would not say that, that I was given a position for that reason, because I left a much better pay and a much more unofficial position than taking on the one in the Ministry. I solely think so because Goering personal asked meto take over the administration work here, and I remember that I asked him four times to take it over. I had not been destined from the very beginn of originally to take this position, and I even then only did accept after I had been given assurance that my predecessor would be given a similar positio of importance in another ministry.

Q Who was your predecessor?

A Ministerial Director Klausner.

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Q K-L-A-U-S-N-E-R, Klausner.

A Yes.

Q He was murdered on 30 June 1934, is that correct?

A He was shot on 30 June 1934.

DR. KEMPNER: Yes.

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Q Were you an SS Obergruppenfuehrer at that time?

A Yes.

Q Do you know that SS men shot your predecessor?

A I heard that they were not SS men, but that they wore SS uniforms.

Q Did you agree by saying that that was pure murder?

A Objectively, it was murder.

Q What did you do when you heard that your predecessor was murdered by the SS, your predecessor who was the head of the Catholic action in Germany?

A I have already stated that objectively I considered this murder. If I consider the whole legal development of the action that took place at that time, and consider this an individual case, I would like to say that I saw the legal basis in the law that had been passed on the 3rd of July, and though I might not say that I was terribly affected by it and opposed to these affairs, but with the law of authorization that had been passed, I saw, on the 23rd of March, 1933, the legal basis for these events. On the other hand, it was not my concern to try to have these things investigated, and I could never investigate them if I had authority to do so because I was not competent in my office to do so. Furthermore, I do not remember, could not say or could not judge whether the indictment of high treason that was made was really true here.

Q Are you of the opinion that murder is not murder when a law is passed by a so-called Fuehrer?

A I think there were examples which are settled legally later. The law was undoubtedly, at that time, passed by the competent authorities, signed by them. The possibility for such a law, as I already said, existed.

Q That is to say that if the Fuehrer made a law that all Jews were to be exterminated and ordered this in the form of a law, that is right too, is it?

A As a legal man, the question is too general for me to answer. It would have to be decided whether a legal example is here or not.

Q Was, in your opinion, the killing and gassing of the Jews a crime or not?

A The most terrible crime that I can imagine.

Q Was the murder of Minister Director Klausner, head of the Catholic

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Action in Germany, a crime in your opinion or not?

A I can only answer the question if I am given the facts concerning this event, which I have not had up to now.

Q You mean that even today you have not made up your mind as to what it is?

A If the things that I have learned, and the things made known to me now are true, then I must say it was murder.

CAPTAIN TUBRIDY: We will have a recess now.

(A short recess was taken.)

BY DR. KEMPNER:

Q You said that you were not competent to act in Klausner's case, is that correct?

A Yes.

Q Don't you know that there was a law concerning settlement of civil claims?

A Yes.

Q For example, if Klausner's widow wanted a pension, you were the competent authority to decide on that?

A No. Klausner was in the Reichministry of Transportation, and it was a question that concerned the Reich.

Q That is a mistake of yours, I am sorry. I shall tell you and may be then you will remember. Klausner was murdered on 30 June 1934. His wife wanted to have damages paid to her for the murder from the German Reich. Didn't she, in this connection, have to turn to the Minister of Interior that was competent for the settlement of civil claims?

A Yes, for her settlement of the indemnity question. The damage would not be for her pension.

Q Mrs. Klausner's lawyer went to the Minister of the Interior, do you remember the lawyer's name?

A No.

Q It was Luender.

A Luender did not come to me.

Q But he was in your Ministry.

A These questions were, at that time, handled in the department that

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was under State Secretary Pfundner.

Q Do you know that Pfundner, after he made this claim application, was arrested by the Gestapo?

A Yes, I heard that.

Q Was this also one of the terrible things the Gestapo did, according to you?

A Yes.

Q I have something else here, taken from the files of the Minister of the Interior. Did the Minister of the Interior, for example, complain that people in foreign countries were kidnapped by the Gestapo?

A That is possible. I don't remember single cases at the present time.

Q Do you remember the case of Bernhold Jakob who was urged to come over from Switzerland across the border and kidnapped?

A I remember a case, but not the name of Jakob.

Q You don't remember this case?

A No. May I see the document, maybe I shall remember then.

Q This is a long document and I don't want to introduce it. I shall just ask you if you remember the following sentences:

"Serious cases of political consequences or difficulties have, in recent times, occurred by the Gestapo by means of kidnapping on sovereign territory. I refer to the cases of Jakob (Switzerland), Gutzeid (Netherlands and Holland), and the latest incident on the Czech border."

A If that occurred during my time, I should have written in that fashion.

Q And if the Minister of the Interior complained about such things, they were right?

A I am sure I dod not do this without any material.

Q Here's another case, do you remember this one? It says:

" I shall here only mention the case of my teacher and kreisleiter Esterwegen, who was confined in protective custody for 8 days because he had and was later found giving his report concerning the treatments carried out by the SS."

A I remember this case exactly.

Q Was that your old Kreisleiter?

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A No.

Q Was it a new Kreisleiter?

A I don't know, I don't remember. If I remember correctly, I sent 50 people of the Field Gendarme and had the camp evacuated of SS personnel and had them manned by the Gendarme.

Q What did the SS do there?

A That must have been very early in 1933. The SS had been sent into the Papenburger district in order to ameliorate conditions and to alleviate unemployment. They were in a camp near Esterwegen and had very frequently arrested people and brought them into the camp.

Q Is it correct that the SS mistreated people?

A Yes.

Q And the man you spoke about was arrested by the Gestapo and you complained about that?

A I don't know who maltreated them. It was either the SS or the Gestapo at that time.

Q According to the document that I have quoted, it says "the man had made a correct report concerning the treatments carried out by the SS."

A To us?

Q I don't know, but you complained about this?

A Yes.

Q Do you know the concentration camp Columbia Haus in Berlin?

A Yes, I know the Columbia House in Berlin.

Q Did you receive any complaints concerning the fact that the SS guards maltreated people there?

A The Columbia House was an extended detention institution for the Gestapo. At that time I knew of more complaints about the H elemanustrasse, as I have already mentioned. That was a so-called unauthorized SA barracks.

Q I am now speaking about the quite authorized Columbia House on the Tempelhof. You knew that maltreatments occurred there too?

A Yes.

Q You knew that the guards were SS men?

A From hearsay I can say yes.

Q I was there, I saw them. Now, another point. Where were you on 28 February 1933?

A In the Ministry of the Interior. That was the day of the Reichstag conflagration.

Q Where were you on the evening of the Reichstag conflagration?

A I had gone to report to Minister Goering.

Q Between 9:00 and 10;00 p.m., you were in the burning Reichstag building. Why did you go there?

A Because I was head of the police department at that time and wanted to see the measures that were being taken.

Q Who called you there?

A We received the news from Daluege, or a Minister, when he was reportir to Goering, and the Minister had me go with him immediately to the Reichstag.

Q You stood at the head of the big stairs in SS uniform with Goering and Hitler, is that correct?

A Yes.

Q Do you know who set the Reichstag on fire?

A Yes, I heard later.

Q Who was it?

A The SA Gruppenfuehrer, that is, at that time, SA Brigadefuehrer Ernst, with several SA men.

Q Where did you get your official information, and where did you hear of it?

A I did not hear of it officially. I learned of it later.

Q In 1936?

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A It may have been 1936 or 1937.

Q And who told you this?

A I imagine that Gisevius told me this.

Q Didn't you receive any information at that time that the suggestion that communists and socialists had set it on fire had been pure invention?

A Yes, as the only man asked, at the time, was the janitor who had been in the building and was the lat one to leave. He locked it up and told me that Thorgler was the only one who had been in the Reichstag at the end, and that he had fetched his hat and coat from the cloak room upstairs and left later. When the Gestapo said that commandoes had been the criminals, the explanation seemes plausible to me.

Q I now refer you to testimony given be Goering, and I shall give you the USA number later. Goering said, in his testimony :

"We, that is, Hitler and I gave out the news that commandoes had set the Reichstag on fire without any investigati having taken place at all. That is the way the Fuehrer wanted it.

Do you agree with this?

A Yes, as the regulation of 28 February 1933 is based on these facts.

Q That is to say that the regulation that abolished civil rights was based on a swindle?

A In retrospect, yes.

Q You yourself did not know that at that time?

A No.

Q A number of people were arrested on that day after the fire, is that correct?

A Yes. Thorgler, the commandos, and Lubbe.

Q No, I mean the big commandoes, Diehls and so on?

A Yes.

Q These reports were set up, as testified in the Ministry of the interior in the Police Department. You were the head,

at that time. What can you say about this?

A At that time Diehls , together with Ministerial Director Schulze was in the Political Department and not in the Police Department, and as far as I know, it had been separated. Therefore. I was not officially concerned with this question.

Q Had you heard that such decrees were being drawn up by another department?

A No, and I must say quite frankly, that I have no idea about the extent of the arrests even today.

Q You answered to a question asked by one of the defense lawyers, that the officials of the Gestapo were to be taken over cumulatively, or as a group, from the former administration?

A Yes.

Q Do you still insist on this testimony or do you want to restrict it?

A Diehls told me at that time that he had taken all the 1-A officials of the Police Department and transferred them, or a great part of them, to my office. I met a number of them in camp and they told me that they blamed me for having been transferred, so that I must say that these officials were transferred by Diehls to the Police Department.

Q Do you know that the people who were anti-National Socialists were not transferred but fired?

A No.

Q You don't know that the leading 1-A officials in Berlin were Schnidler, Schoch, Arian, Stumm and Stenzel?

A I don't remember these names.

Q Would you say it is true if that is stated in the Ministerial paper of the interior administration?

A Yes.

Q Do you want to restrict your testimony now to this extent that not all of the officials of the administration of Department 1-A were transferred, but that the anti-National Socialists were fired beforehand?

A Yes.

Q Very well.

A May I see the document. The law had not been put into effect at that time concerning the re-establishment of the civil servant's system.

Q They were first sentenced and then fired entirely by reason of the law. Now, another chapter.

How large was the number of police employees when you took over the Police Department in Prussia?

A I only remember that they numbered 48,000 -- and I had these as regular police. I don't know how many of them were administrative or criminal officials.

Q Would you consider it correct if the Pathfinder stated that the Prussian Police had a strength of 78,000 to 80,000?

A Yes, that would have to be correct.

Q You very strongly increased the Police, is that correct?

A To a certain extent yes, up to 1935, but after 1935 this occurred once more but against my will.

Q Mr. Gravert, the Prosecution would like to direct your attention to the fact that you are not a defendant here, but only a witness.

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A. Yes, after 1935 the regular police was once more brought to the old strength.

Q. Is it correct that the SS and SA Auziliary Police were increased?

A. Yes, including the Blue Shirts, if I may mention them.

Q. Why was the decree that you made, at that time, termed to be a top secret matter, and had top secret written over it when you employed SS and SA?

A. I cannot remember any reason because they appeared in public. They were restricted, so far as I remember, in that they would only be employed for 3 marks per day, and that they could only become active in the company of an official of the regular police.

Q. Afterwards you employed a considerably larger number and these were given military training, is that correct?

A. They were not employed by the Ministry, but by the Police Department, and so far as I remember, they were cancelled very soon because I could not see any apecial use or purpose in them, and they received no military trainin

Q. Do you know that under the cloak of the police, 50,000 men were employed and trained, and on the 16th of March, 1935, they suddenly appeared as soldiers?

A. If you mean the Ladespolizei whose strength of 30,000 men was based on the Versailles treaty, then these men were based in Paris.

Q. I want to know if it is correct that 48,000 to 50,000 men were newly employed and suddenly appeared on the 16th of March, 1935, as soldiers? I don't want to know the reason, I just want to know if it is correct.

A. This 45,000 to 50,000 men were, if I remember, were placed in the army but they were not newly recruited men but were made up of the men who lived in barracks. I remember this so exactly because I had a decided opinion against Barracks Police and wanted to abolish it.

Q. I am not reproaching you with anything, I just want to know the fact. Would it be correct to say that the Prussian Minister of the Interior, Minister Goering, at that time used the Police for reasons of rearmament? Is that correct?

A. It was, at this time, Fricke, but the transfer was made by the

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Minister of theInterior.

Q. And who started it, Fricke or Goering?

A. At the time of Goering, the Police was there. It started with Goering and ended with Fricke.

Q. Now, one last point. You studied legal literature and the laws very closely, didn't you?

A. At that time, yes.

Q. You yourself made many laws and regulations.

A. Yes.

Q. Your signature is on many documents here of the Legal Gazette of 1933. You also aided the law compilations of Freisler, didn't you?

A. Yes.

Q. And you are well informed on matters of SS and Police?

A. Yes.

Q. Do you know that in the legal documents, there is the following sentence not once, but ten times/ "The Police and the SS are the uniform gate protectors of the Reich". Is that correct if this was re-examined officially again and again?

A. Not in my time, not in Prussia.

Q. I refer to 1936.

A. When Himmler became chief of Police, this danger became greater and that is why I personally was opposed to it.

Q. And you left because you realized that something very bad was about to occur, is that correct?

A. I did not want the officials to present the attitude that he alone was the representative of the State.

Q. You were against the amalgamations and became more and more close to the SS and Police, is that correct?

A. I tried to turn the course of events and failed.

Q. Because you knew that this would eventually lead to terrible consequences, is that correct?

A. Because I feared that the cordon of my interior organization,

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especially insofar as the central institution was concerned, would sugger and be destroyed.

Q. You knew that if the SS and these things would amalgamate, it would mean the end of a half-way decent state organization?

A. I feared that with such a system, one no longer had any clear responsibility.

Q. Because the same people who were subordinateto the State were also subordinate to Himmler?

A. I saw that things could be carried out from one sight, and from another sight without the state having the possibility of interfering if it wanted to interfere.

Q. And you saw this very distinctly as a leader and state administration.

A. Yes.

Q. And by reason of your knowledge as a legal man, you condemned such an amalgamation?

A. I considered this the cause of this whole terrible development.

DR. KEMPNER: Thank you, that's all.

CAPT. TUBRIDY: Dr. Pelckmann, do you want to ask any further questions?

DR. PELCKMANN: No further questions.

CAPT. TUBRIDY: Could we adjourn now and start again at 1:35 p.m.

DR. PELCKMANN: Yes.

DR. KEMPNER: Yes.

(The Commission adjourned at 1230 hours)

I certify that the foregoing is a true and correct transcript of the testimony of LUDWIG GRAVERT takne on 1 July 1946.

Charles Gallagher
Reporter

Piilani A. Ahuna
Reporter

COMMISSIONER:

Joseph F. Tubridy.